

Notice of Allowability

Application No.

10/729,018

Examiner

Jordan M. Schwartz

Applicant(s)

MILLER ET AL.

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2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment received 10/25/04.
2. ☒ The allowed claim(s) is/are 2-23,25-40,42,43,45-54,56-59 and 61.
3. ☒ The drawings filed on 05 December 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau. (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10/25/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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Allowed Claims: 2-23, 25-40, 42-43, 45-54, 56-59, and 61.

Examiner's Amendment/Reasons for Allowance

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Andrew M. Douglas on January 4, 2005.

The application has been amended as follows:

1. Cancel claim 55;
2. Claim 30, line 1, after "method" insert --of--;
3. Claim 53, lines 1-2, after "bio-compatible" insert --material--;
4. Claim 54, lines 1-2, after "bio-compatible" insert --material--;
5. Claim 58, lines 1-2, after "bio-compatible" insert --material--; and
6. Claim 59, lines 1-2, after "bio-compatible" insert --material--.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: none of the prior art either alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103. Specifically, with respect to independent claim 3, none of the prior art either alone or in combination disclose or teach of the claimed ophthalmic device comprising an optic configured to scatter diverging light reaching the optic,

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whereby the depth of focus is increased, and specifically including, as the distinguishing feature in combination with the other limitations, the claimed optic configured to forward scatter substantially parallel light reaching the optic and back scatter diverging light reaching the optic. Specifically, with respect to independent claim 25, none of the prior art either alone or in combination disclose or teach of the claimed method of increasing the depth of focus of an eye of a patient, comprising providing an ophthalmic device comprising an optic configured to scatter diverging light reaching the optic, and specifically including, as the distinguishing feature in combination with the other limitations, the claimed optic configured to forward scatter substantially parallel light reaching the optic and back scatter diverging light reaching the optic. Specifically, with respect to independent claims 45 and 61, none of the prior art either alone or in combination disclose or teach of the claimed ophthalmic lens or method of increasing depth of focus comprising an optic configured to produce light scattering, a pinhole-like aperture substantially in the center of the optic, and specifically including, as the distinguishing feature in combination with the other limitations, the claimed optic configured to forward scatter parallel light reaching the optic and back scatter diverging light reaching the optic.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan M. Schwartz whose telephone number is (571) 272-2337. The examiner can normally be reached on Monday to Friday (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached at (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'JMS', with a large, stylized loop at the end.

Jordan M. Schwartz
Primary Examiner
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January 5, 2005